



Agenda Date: 6/6/01

Agenda Item: 3-B

## **STATE OF NEW JERSEY**

### **Board of Public Utilities**

*Two Gateway Center*

*Newark, NJ 07102*

#### CABLE TELEVISION

IN THE MATTER OF RCN TELECOM )  
SERVICES, INC. FOR APPROVAL OF THE )  
FILING OF FCC FORM 1240, AN )  
ANNUAL UPDATING OF THE MAXIMUM )  
PERMITTED RATE FOR THE REGULATED )  
BASIC CABLE SERVICE, AND IN )  
CONNECTION THEREWITH FCC FORM 1205 )  
DETERMINING REGULATED EQUIPMENT )  
AND INSTALLATION COSTS USING THE )  
OPTIONAL EXPEDITED RATE )  
PROCEDURES )

#### ORDER ADOPTING STIPULATION

DOCKET NOS. CR01010060  
CR01010061

(SERVICE LIST ATTACHED)

#### BY THE BOARD:

On January 25, 2001, RCN Telecom Services, Inc. ("Petitioner") filed Federal Communications Commission ("FCC") Form 1240, Docket Number CR01010060, seeking approval by the Board of Public Utilities ("Board") for an annual rate adjustment in its maximum permitted rate resulting from an adjustment for inflation, programming costs and copyright fees, and Form 1205, Docket Number CR01010061, for regulated equipment and installation costs pursuant to the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 et seq., and provisions of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq.

The Board, at its public meeting on January 10, 1996, in Docket Number CX95120636, approved the implementation of Optional Expedited Rate Procedures for the processing of certain filings made with the Office of Cable Television ("OCTV"). The intended purpose of these procedures is to grant final rates as quickly as possible to any cable company that chooses this process. In the spirit of cooperation based on the principles of Alternate Dispute Resolution ("ADR"), the discovery content is limited, thereby reducing the timeframe for settlement.

Petitioner chose to pursue its filings with the Board through the approved procedures. To that end, a pre-transmittal conference was held on February 27, 2001 and attended by representatives of the Petitioner, the Division of the Ratepayer Advocate and Board Staff. Petitioner agreed to waive its Office of Administrative Law ("OAL") litigation rights for these matters. It should be noted that Petitioner's waiver was a knowing, voluntary and intelligent

waiver of its litigation rights at the OAL and that the waiver did not constitute a circumvention of the FCC rules nor did it affect Petitioner's right to appeal in that forum.

Petitioner notified its customers of the rate increase by way of a newspaper announcement informing them of their opportunity to submit written comments to the Board for a period of thirty days. The notice appeared in The Courier News on March 6, 2001. During this time, no comments were received as a result of this public notice.

Upon review by Staff and the Ratepayer Advocate of the supporting documentation, schedules and other discovery requests, a settlement conference was held on March 15, 2001. On April 16, 2001, the parties entered into a Stipulation of Settlement.

The Board has reviewed the Stipulation and FINDS it to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation of Settlement (attached hereto) as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board FURTHER ORDERS that should this cable system, or any part thereof, merge and/or migrate to another system, be upgraded and/or rebuilt, its ownership or control be otherwise sold or transferred to another entity, the basic service tier rate that will be eliminated or superseded as a result of the merger, migration, upgrade, rebuild, sale or transfer must be "trued-up" [47 C.F.R. § 76.922 (e) (3)]. The final true-up for the affected system, or any part thereof, should be calculated on FCC Form 1240 and begin where the last true-up period ended on its prior FCC Form 1240. This true-up calculation should be filed with the Board when all the affected subscribers are being charged the rate resulting from the merger, migration, upgrade, rebuild, sale or transfer and may be filed in conjunction with the annual rate adjustment cycle (Form 1240) established as a result of said merger, migration, upgrade, rebuild, sale or transfer.

Should this cable system, or any part thereof, be subsequently deregulated as a result of a finding by the Board, the FCC or other party of competent jurisdiction, that the system, or any part thereof, is subject to effective competition, the last basic service rate established as a result of a prior FCC Form 1240 or such subsequent rate calculation method as may be heretofore adopted by the Board, the FCC or other party of competent jurisdiction, prior to the

deregulation of any rate that is now or may in the future be subject to the Board's jurisdiction, must be trued-up for the period of time that the affected rates were subject to regulation by the Board.

DATED: June 6, 2001

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

CAROL J. MURPHY  
ACTING PRESIDENT

(signed)

FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH  
SECRETARY

IN THE MATTER OF  
RCN TELECOM SERVICES, INC.  
FCC FORMS 1240 AND 1205 USING THE  
OPTIONAL EXPEDITED RATE PROCEDURES

DOCKET NUMBERS: CR01010060, CR01010061

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